IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

Crl.MC.No. 3481 of 2007()

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Cr.NO.141/04 OF VADAKKANCHERY POLICE STATION

PETITIONER: ACCUSED

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1. BINDU BHUSHAN, S/O.GOPALAKRISHNAN,
   NADUVATHARA VEEDU, KALLETTUKARA,
   MUKUNDAPURAM, THRISSUR.

2. MINI, AGED 66 YEARS, W/O.GOPALAKRISHNAN,
   NADUVATHARA VEEDU, KALLETTUKARA,
   MUKUNDAPURAM, THRISSUR.

BY ADV. SRI.S.RAJEEV

RESPONDENTS: COMPLAINANTS

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1. STATE OF KERALA,
   REPRESENTED BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM
   (CRIME NO.141 OF 2004 OF VADAKKANCHERY
   POLICE STATION).

2. LISIYA, AGED 32 YEARS,
   D/O.K.P.SAHADEVAN, CHINNAMMA SADANAM,
   PUTHUKKODE, APPAKKAD, ALATHUR, PALAKKAD.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ
ADV. SRI.K.B.MOHANDAS
SRI.LELLULAL T.G.THUNDATHIL
SRI.K.A.SREEJITH
SRI.M.R.DHANIL

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J**

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**Crl.M.C.No.3481 of 2007**

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**Dated this the 22nd day of November, 2007**

**O R D E R**

Petitioners face indictment in a prosecution under Section 498 A I.P.C. Though initially there were 8 accused persons, the prosecution against all the co-accused has been quashed. The petitioners are the husband (the 1st accused) and mother in law (A2) of the defacto complainant (the 2nd respondent). It is on the complaint of the 2nd respondent that the crime was registered by the police. Cognizance was taken on the basis of a final report submitted by the police. The indictment is now pending before the learned Magistrate as C.C.450 of 2004.

2. The petitioners/accused and the 2nd respondent/the defacto complaint have come before this Court now to report to the Court that the disputes between them have been settled and the 2nd respondent has compounded the offences allegedly committed by the petitioners. The 1st petitioner and the 2nd respondent have already secured a divorce by mutual consent and all outstanding disputes have been settled. I am satisfied from the submissions made at the Bar, from the statements filed and from the submissions made by the learned counsel for the petitioners and the 2nd respondent that the parties have settled their disputes and the 2nd respondent has compounded the offences allegedly committed by the petitioners. The learned Public Prosecutor also accepts the same. I am, in these

circumstances, satisfied that if legally permissible, the settlement and composition can be accepted and premature termination of the proceedings can be brought about.

3. But the offence under Section 498 A I.P.C is not legally compoundable. The counsel, in these circumstances, rightly rely on the decision in **B.S.Joshy v. State of Haryana** [A.I.R (2003) SC 1386]. That decision is authority for the proposition that the interests of justice may at times transcend the interests of mere law and in such situation, the stipulation of Section 320 Cr.P.C cannot be reckoned as a fetter on the sweep, width and amplitude of the extraordinary inherent powers under Section 482 Cr.P.C. This, I am satisfied, is an eminently fit case where the powers under Section 482 Cr.P.C as enabled by the dictum in **B.S.Joshy v. State of Haryana** [A.I.R (2003) SC 1386] must be invoked and premature termination of the proceedings brought about.

4. In the result:

i) This Crl.M.C is allowed;

ii) C.C.No.450 of 2004 pending before the Judicial Magistrate of the First Class, Alathur against the petitioners is hereby quashed.

Hand over a copy of this order to the learned counsel for the petitionerS.

**(R.BASANT, JUDGE)**

rtr/-